

CHAPTER NO. 304

SENATE BILL NO. 481

By Burks, Kilby

Substituted for: House Bill No. 1340

By Hargrove, Michael Turner

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 24 and Title 71, Chapter 6, relative to funding for additional sexual assault program services and to create a committee to review and advise relative to the allocation of such funds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 24, is amended by adding the following new section:

Section 40-24-108. (a) When any person is convicted of a sexual offense as defined in subsection (b)(2) of this section on or after July 1, 2003, in addition to any other punishment that may be imposed for such sexual offense, the court shall impose a fine of two hundred dollars (\$200). Such additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the same to the general fund. All such fines so credited to the general fund shall be subject to appropriation by the General Assembly for the exclusive purpose of funding sexual assault program services pursuant to Tennessee Code Annotated, Title 71, Chapter 6, Part 3.

(b)(1) For purposes of this section, "convicted" means an adjudication of guilt for a sexual offense as defined in subsection (b)(2) of this section in any of the manners described:

(A) Plea of guilty, including a plea of guilty entered pursuant to § 40-35-313;

(B) Verdict of guilty by a judge or jury;

(C) Plea of no contest; or

(D) Best interest plea.

(2) "Sexual offense" means:

(A) The commission of any act that constitutes the criminal offense of:

(i) Aggravated rape, under § 39-13-502;

(ii) Rape, under § 39-13-503;

(iii) Aggravated sexual battery, under § 39-13-504;

(iv) Sexual battery, under § 39-13-505;

- (v) Statutory rape, under § 39-13-506;
- (vi) Sexual exploitation of a minor, under § 39-17-1003;
- (vii) Aggravated sexual exploitation of a minor, under § 39-17-1004;
- (viii) Especially aggravated sexual exploitation of a minor, under § 39-17-1005;
- (ix) Incest, under § 39-15-302;
- (x) Rape of a child, under § 39-13-522;
- (xi) Sexual battery by an authority figure, under § 39-13-527;
- (xii) Solicitation of a minor, under § 39-13-528;
- (xiii) Criminal attempt, under § 39-12-101, solicitation, under § 39-12-102, or conspiracy, under § 39-12-103, to commit any of the offenses enumerated within this subdivision (3)(A); or
- (xiv) Criminal responsibility under § 39-11-402(2) for facilitating the commission under § 39-11-403 of, or being an accessory after the fact under, § 39-11-411 to any of the offenses enumerated in this subdivision.

SECTION 2. Tennessee Code Annotated, Title 71, Chapter 6, is amended by adding the following new part:

71-6-301. There is established a program for the establishment and funding of sexual assault program services to be administered by the Department of Finance and Administration.

71-6-302. As used in this part, unless the context requires otherwise:

(a) "Department" means the Department of Finance and Administration.

(b) "Sexual assault" includes victims of any of the sexual offenses set out in § 40-24-108(b)(2).

(c) "Sexual assault crisis intervention" includes but is not limited to:

(1) A 24-hour hotline for victims of sexual assault staffed by a trained person;

(2) Counseling for sexual assault victims and their families and friends;

(3) Accompaniment of victims of sexual assault to courts, hospitals, district attorneys offices, law enforcement, or victim/witness coordinators offices;

(4) Information and referrals for victims of sexual assault;

(5) Advocacy with law enforcement, criminal justice, medical, mental health, school, and other related systems on behalf of sexual assault victims; and

(6) Educational programs for allied professionals and the general public on sexual assault.

(d) "Sexual assault program" means a program that provides sexual assault program services.

(e) "Sexual assault program services" means free sexual assault crisis intervention provided by a community-based program to persons who have been victims of a sexual assault and to their families and friends.

71-6-303. In administrating these programs, the department:

(a) Shall establish an advisory committee, which shall review all program criteria adopted by the department and advise the commissioner relative to the allocation of funds under this part. The committee shall consist of five (5) members, one (1) of whom should be a former client of a sexual assault program. Three (3) of the committee members shall be appointed by the commissioner of the department with consent and approval of the Governor. Two (2) of the advisory committee members shall be appointed by the Governor from among persons recommended by the Tennessee coalition against domestic and sexual violence. Each committee member shall be selected for a four-year term and may be selected to serve successive terms. Committee members shall be reimbursed for their actual expenses in attending meetings, with travel expenses to be reimbursed in accordance with the provisions of the comprehensive travel regulations promulgated by the Department of Finance and Administration and approved by the attorney general and reporter.

(b) In order to assure that funds are distributed statewide, may not disburse more than fifty thousand dollars (\$50,000) from state funds provided under this part to any one (1) sexual assault program in one (1) fiscal year, unless the department finds that exceeding the fifty thousand dollar (\$50,000) guideline is warranted by the availability of funds, the area served by the provider, or the best interests of the citizens served by the program;

(c) Shall accept any federal funds that may be available for use in carrying out the provisions of this part and may use state funds, in addition to the funds allocated under this part, as matching funds for federal funds if matching funds are required;

(d) May expend only those actual amounts, including travel expenses for advisory committee members, reasonably necessary for administration of the funds provided under this part;

(e) Shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5, necessary to carry out the purposes of this part related to the programs under its jurisdiction. The department shall, upon recommendation of its advisory committee, establish standards for operation of the services including establishment of a timetable for application and disbursement of funds; and

(f) Shall require an annual report from each service funded which shall include, in addition to all information required by the department, statistics on the number of persons requesting service, the number of persons served, the type of service rendered and a description of the social and economic characteristics of the person served and the number and type of referrals, including medical, legal, and educational services, made to other community resources. No information contained in the report shall identify any person served or enable any person to determine the identity of such a person.

71-6-304. To receive funds under this part, organizations shall:

(a) Be incorporated as a not-for-profit corporation, and be tax-exempt under § 501 of the Internal Revenue Code; and

(b) Comply with §§ 37-1-403 and 37-1-605 by reporting cases of suspected child abuse and neglect or child sexual abuse to the Department of Children's Services and comply with § 71-6-103 by reporting suspected cases of adult abuse, sexual abuse, neglect, or exploitation to the Department of Human Services.

71-6-305. To receive funds under this part for sexual assault program services, all applicants shall show that they have provided sexual assault program services for at least six (6) months prior to the application for funds under this part.

71-6-306. A portion of the funds generated from the additional fine imposed upon persons convicted of sexual offenses pursuant to § 40-24-108 shall be used to pay the necessary expenses for any meetings of the advisory committee established by this part.

71-6-307. Funds distributed under the provisions of this part shall be distributed as equally as possible to serve all geographic areas of the state.


SECTION 3. The sexual assault advisory committee created by Section 71-6-303 shall terminate June 30, 2005, unless otherwise continued by the General Assembly.

SECTION 4. For purposes of appointing the members of the advisory committee as required by Section 71-6-303(a) of Section 2, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on July 1, 2003, the public welfare requiring it.

PASSED: May 27, 2003



JOHN S. WILDER
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 11th day of June 2003



PHIL BREDEBEN, GOVERNOR